

UNITED STATES DISTRICT COURT  
Southern District of New York  
Office of the Clerk  
500 Pearl Street  
New York, N.Y. 10007  
(212)805-0136

J. Michael McMahon  
Clerk

USDC ED OF CALIFORNIA

Date: 10/24/07

In Re: FOSAMAX

MDL 1789

Your Docket #

S.D. OF N.Y.

2:07-1872

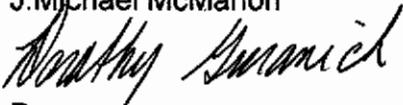
07 CV 9477

Dear Sir:

Enclosed is a certified copy of the order of the Judicial Panel on Multidistrict Litigation, transferring the above entitled action presently pending in your court, to the Southern District of New York and assigned to Judge KEENAN for coordinated or consolidated pretrial processing pursuant to 28 USC 1407.

Please return the copy of this letter when transmitting YOUR FILE and a CERTIFIED COPY OF THE DOCKET SHEET.

Sincerely,  
J. Michael McMahon

  
By:  
MDL Unit

**A CERTIFIED TRUE COPY****07 CIV 9477****JUDICIAL PANEL ON  
MULTIDISTRICT LITIGATION**

OCT 15 2007

**JUDGE KEENAN**ATTEST *Donald J. Steven*  
FOR THE JUDICIAL PANEL ON  
MULTIDISTRICT LITIGATIONUNITED STATES JUDICIAL PANEL  
on  
MULTIDISTRICT LITIGATIONSEP 27 2007  
FILED  
CLERK'S OFFICEFLD  
S.D. of NY  
10/24/07**IN RE: FOSAMAX PRODUCTS LIABILITY LITIGATION**Ernestine Highet v. Merck & Co., Inc.,  
E.D. California, C.A. No. 2:07-1872

MDL No. 1789

**CONDITIONAL TRANSFER ORDER (CTO-35)**

On August 16, 2006, the Panel transferred four civil actions to the United States District Court for the Southern District of New York for coordinated or consolidated pretrial proceedings pursuant to 28 U.S.C. § 1407. *See* 444 F.Supp.2d 1347 (J.P.M.L. 2006). Since that time, 90 additional actions have been transferred to the Southern District of New York. With the consent of that court, all such actions have been assigned to the Honorable John F. Keenan.

It appears that the action on this conditional transfer order involves questions of fact that are common to the actions previously transferred to the Southern District of New York and assigned to Judge Keenan.

Pursuant to Rule 7.4 of the Rules of Procedure of the Judicial Panel on Multidistrict Litigation, 199 F.R.D. 425, 435-36 (2001), this action is transferred under 28 U.S.C. § 1407 to the Southern District of New York for the reasons stated in the order of August 16, 2006, and, with the consent of that court, assigned to the Honorable John F. Keenan.

This order does not become effective until it is filed in the Office of the Clerk of the United States District Court for the Southern District of New York. The transmittal of this order to said Clerk shall be stayed 15 days from the entry thereof. If any party files a notice of opposition with the Clerk of the Panel within this 15-day period, the stay will be continued until further order of the Panel.

FOR THE PANEL:



Jeffrey N. Lüthi  
Clerk of the Panel

Inasmuch as no objection is  
pending at this time, the  
stay is lifted.

OCT 15 2007

CLERK'S OFFICE  
JUDICIAL PANEL ON  
MULTIDISTRICT LITIGATION

A CERTIFIED COPY  
J. MICHAEL McMAHON,  
CLERK  
BY   
DEPUTY CLERK